



Senate

General Assembly

File No. 586

January Session, 2003

Substitute Senate Bill No. 978

Senate, April 30, 2003

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL LIABILITY FOR RECREATIONAL LAND USE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-557n of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) (1) Except as otherwise provided by law, a political subdivision
4 of the state shall be liable for damages to person or property caused by:
5 (A) The negligent acts or omissions of such political subdivision or any
6 employee, officer or agent thereof acting within the scope of his or her
7 employment or official duties; (B) negligence in the performance of
8 functions from which the political subdivision derives a special
9 corporate profit or pecuniary benefit; and (C) acts of the political
10 subdivision which constitute the creation or participation in the
11 creation of a nuisance; provided, no cause of action shall be
12 maintained for damages resulting from injury to any person or
13 property by means of a defective road or bridge except pursuant to

14 section 13a-149.

15 (2) Except as otherwise provided by law, a political subdivision of
16 the state shall not be liable for damages to person or property caused
17 by: (A) Acts or omissions of any employee, officer or agent which
18 constitute criminal conduct, fraud, actual malice or wilful misconduct;
19 or (B) negligent acts or omissions which require the exercise of
20 judgment or discretion as an official function of the authority expressly
21 or impliedly granted by law.

22 (b) Notwithstanding the provisions of subsection (a) of this section,
23 a political subdivision of the state or any employee, officer or agent
24 thereof acting within the scope of his or her employment or official
25 duties shall not be liable for damages to person or property resulting
26 from: (1) The condition of natural land or unimproved property,
27 including any such land or property used for passive recreational
28 activities; (2) the condition of a reservoir, dam, canal, conduit, drain or
29 similar structure when used by a person in a manner which is not
30 reasonably foreseeable; (3) the temporary condition of a road or bridge
31 which results from weather, if the political subdivision has not
32 received notice and has not had a reasonable opportunity to make the
33 condition safe; (4) the condition of an unpaved road, trail or footpath,
34 the purpose of which is to provide access to a recreational or scenic
35 area, if the political subdivision has not received notice and has not
36 had a reasonable opportunity to make the condition safe; (5) the
37 initiation of a judicial or administrative proceeding, provided that such
38 action is not determined to have been commenced or prosecuted
39 without probable cause or with a malicious intent to vex or trouble, as
40 provided in section 52-568; (6) the act or omission of someone other
41 than an employee, officer or agent of the political subdivision; (7) the
42 issuance, denial, suspension or revocation of, or failure or refusal to
43 issue, deny, suspend or revoke, any permit, license, certificate,
44 approval, order or similar authorization, when such authority is a
45 discretionary function by law, unless such issuance, denial, suspension
46 or revocation or such failure or refusal constitutes a reckless disregard
47 for health or safety; (8) failure to make an inspection or making an

48 inadequate or negligent inspection of any property, other than
 49 property owned or leased by or leased to such political subdivision, to
 50 determine whether the property complies with or violates any law or
 51 contains a hazard to health or safety, unless the political subdivision
 52 had notice of such a violation of law or such a hazard or unless such
 53 failure to inspect or such inadequate or negligent inspection
 54 constitutes a reckless disregard for health or safety under all the
 55 relevant circumstances; (9) failure to detect or prevent pollution of the
 56 environment, including groundwater, watercourses and wells, by
 57 individuals or entities other than the political subdivision; or (10)
 58 conditions on land sold or transferred to the political subdivision by
 59 the state when such conditions existed at the time the land was sold or
 60 transferred to the political subdivision.

61 (c) Any person who serves as a member of any board, commission,
 62 committee or agency of a municipality, and who is not compensated
 63 for such membership on a salary or prorated equivalent basis, shall not
 64 be personally liable for damage or injury occurring on or after October
 65 1, 1992, resulting from any act, error or omission made in the exercise
 66 of such person's policy or decision-making responsibilities on such
 67 board, commission, committee or agency if such person (1) was acting
 68 in good faith [,] and within the scope of such person's official functions
 69 and duties, and (2) was not acting in violation of any state, municipal
 70 or professional code of ethics regulating the conduct of such person [,]
 71 or in violation of subsection (a) of section 9-369b or subsection (b) or (c)
 72 of section 1-206. The provisions of this subsection shall not apply if
 73 such damage or injury was caused by the reckless, wilful or wanton
 74 misconduct of such person.

This act shall take effect as follows:	
Section 1	October 1, 2003

JUD*Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
Various Municipalities	Potential Savings	Indeterminate	Indeterminate

Explanation

By clarifying that municipal immunity from liability includes any damages to person or property resulting from the condition of land used for passive recreational activities, the bill could reduce future municipal costs for litigation and/or judgments.

OLR Bill Analysis

sSB 978

**AN ACT CONCERNING MUNICIPAL LIABILITY FOR
RECREATIONAL LAND USE****SUMMARY:**

Under current law, municipalities and their employees, officers, and agents acting within the scope of their employment or official duties are not liable for injuries to people or damage to property resulting from the condition of natural land or unimproved property. The bill specifies that the immunity applies to such land or property when it is used for passive recreational activities.

EFFECTIVE DATE: October 1, 2003

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 35 Nay 6